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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,282	01/12/2001	Koichi Ito	4041J-000354	2662

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EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 05/21/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/760,282

Applicant(s)

Ito et al.

Examiner

FORD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-5-03
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 5-9, 11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 2/5/03 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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In the course of searching this application the Examiner found four material references assigned to Denso, which have not been made of record by applicants. In the case of JP 2000-43537 and JP 2000-43536 there appears to be a question whether the claims here are fully supported by the earlier of the two Japanese priority documents (i.e. JP 2000-9966). Please demonstrate by translation and analysis that applicants are entitled to the earlier priority date of JP 2000-9966 as to all claimed subject matter, to eliminate these references. See MPEP 201.15.

As well, two other relevant prior art references JP 10-58947 and JP 5-280802 were discovered, at least one of which was known to the current inventors by virtue of an overlap in the inventive entity. Is there any other prior art of which the Examiner should be aware? Please make a diligent effort to provide the Examiner with the most relevant Denso assigned prior art before prosecution commences.

Applicant has clarified that Figures 10A, 10B, 10C, 11 and 13 are "related art", not prior art. Examination will proceed on that basis, with the Examiner not relying on any of this "related art" in the rejections. Clarification that USP 5899262 is equivalent to JP 8-258538 is appreciated.

Applicant's election, without traverse, of the AC/heater species of Figures 1-3, with the film door species of Figure 4 and 5 is acknowledged. Claim 1-6, 8, 10 and 12 are the claims identified as readable on both species. Claims 7, 9, 11 and 13 are withdrawn.

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The Examiner does not believe claim 5 is readable on the elected species. Read in light of the specification, it pertains to non-elected Figure 6 where the foam strips 26e are fixed to the inner surface of film member 26b as described in the paragraph bridging pages 27-28 of the specification. Accordingly all of claims 5-9, 11 and 13 are designated as non-elected. If applicant disagrees with the Examiner and feels that any of claims 5-8 and 13 are improperly withdrawn, please show where these claims find support in the description of the elected species.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 4, 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claim 1 exactly what structure in Figure 3 is the claimed “edge seal face” and exactly what structure is the “end faces of the opening (s) or “end faces of the grill members” (claim 4). Please define these terms in the claim so that it clear what they are. Note in claim 1, lines 5-6, “end faces of the opening” is recited and in line 12 “openingss” (plural) are recited. Which is correct? The entire last paragraph of claim 1 is vague. Precisely where are these “opening spacing” and “edge seal face spacing” illustrated in the elected species? If there is no such illustration in the elected species a

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proposed drawing correction must be submitted illustrating these two spacings and any other properly claimed structure, which is not illustrated in the elected Figures with an appropriate legend or reference numeral. Specifically, what structure defines "end faces" of an opening? By its nature an opening is simply a void and has no "end faces". In claim 1 lines 14-15 "said door spacing" is without antecedent basis. In claim 1, line 15 "the air passage" is referred to. In claim 1, line 2 "at least one all passage" is recited. Which is correct? Be consistent. What or where are the "ends of the air passage and door" formed by or located? In claim 1, line 19 "said ends" is vague. Which "ends", door or air passage or both are you referring to?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of either USP 5,899,262 or JP 11-254944 and JP 10-58947 and JP 5-280802.

USP '262 and JP '944 each appear to teach a film door carried by door having openings in it. In the case of USP'262 no foam elements mounted on the door are shown pressing the film into contact with the openings. In the case of JP '944 such foam elements may be shown with phantom lines at the edges of the film door, however

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applicant's translation of the abstract doesn't contain enough information to answer this question conclusively.

To have used foam elements in either USP'262 or JP '944 to effect a better seal between the film and the openings that need to be sealed would have been obvious from JP '947. See elements 91K. Since JP '947 is assigned to Denso it is not deemed necessary to explain it further.

Similarly JP 5-280802, another Denso assigned publication, apparently sharing an inventor with the current inventive entity teaches using a slight radius (i.e. a raised center portion in Figure 2, relative to the edge portions 2a) to diminish friction-generated noise. To have radiused the support grid of USP'262 or JP '944 in the manner taught by JP 5-280802 to reduce friction noise would have been obvious.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication should be directed to John K Ford at telephone number 703-308-2636.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K Ford whose telephone number is 703-308-2636.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

JKF/ts
May 20, 2003



John K. Foss
Primary Examiner